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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/086,762 | 02/28/2002 | Robert Groten | 22750/434A | 1346 |
| 26646 | 7590 | 11/17/2004 | | EXAMINER |
| KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004 | | | DEL SOLE, JOSEPH S | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1722 | |

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------|--------------------|-------------------------|
| Advisory Action | Application No. | Applicant(s) |
| | 10/086,762 | GROTON ET AL. <i>PA</i> |
| | Examiner | Art Unit |
| | Joseph S. Del Sole | 1722 |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) The period for reply expires _____ months from the mailing date of the final rejection.

b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. The proposed amendment(s) will not be entered because:

- they raise new issues that would require further consideration and/or search (see NOTE below);
- they raise the issue of new matter (see Note below);
- they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. Applicant's reply has overcome the following rejection(s): _____.

4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____

6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 13-17.

Claim(s) withdrawn from consideration: 18.

8. The drawing correction filed on _____ is a) approved or b) disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.

10. Other: See Continuation Sheet

Continuation of 10. Other: See attached Examiner's response to the Applicant's arguments..

Response to After-Final Arguments

1. Applicant's arguments filed 11/1/04 have been fully considered but they are not persuasive.

The Applicant argues that the claimed systems provide structural definition to overcome the prior art.

The Examiner disagrees. The structural definition within the claims is limited to adjacent openings, Proulx teaches this as discussed in the previous Office action.

The Applicant argues that a recitation of a "die plate with openings sized, shaped and positioned to allow a polymer under certain conditions to exit the openings of the die as two beads that contact one another" provides structure.

The Examiner agrees that structure is included within this recitation. However, such structure is broad and does not overcome the prior art. The claims do not recite the specific rheological conditions that when used with the claimed die produce the claimed result. Such rheological conditions and the specific structural dimensions of the die would have to be discussed in the specification and included in the claims, and further the structural dimensions would have to differ from those of Proulx in order for Proulx to be overcome.

The Applicant argues that in the cited references the polymer exiting the die openings only come in contact with one another after the polymer has been drawn into a strand.

While this may be true, such late contact is a result of the chosen operation of the die. Under a different process, beads through Proulx would contact one another.

The Applicant is arguing method differences. Since the claims are drawn to an apparatus, only structural, physically-defined differences can limit the claims and possibly overcome the prior art.

Correspondence

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joseph S. Del Sole whose telephone number is (571) 272-1130. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Benjamin Utech, can be reached at (571) 272-1137. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from the either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll-free).

Joseph S. Del Sole
J.S.D.
November 15, 2004